

**APPROVED MINUTES
YORK COUNTY PLANNING COMMISSION**

Regular Meeting
York Hall, 301 Main Street
February 12, 2003

MEMBERS

Michael H. Hendricks
Ann F. White
Andrew A. Simasek
Alexander T. Hamilton
Robert D. Heavner
Nicholas F. Barba
Alfred E. Ptaszniak, Jr.

CALL TO ORDER

Chair Michael Hendricks called the regular meeting of the York County Planning Commission to order at 7:00 p.m. He welcomed to the Commission Mr. A. T. Hamilton. The roll was called and all members were present. Staff members present were James E. Barnett, Jr., J. Mark Carter, Timothy C. Cross, and Amy M. Parker.

CITIZEN COMMENTS

There were no citizen comments.

PUBLIC HEARINGS

Application No. UP-615-03, Joseph R. Smith: Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 2, No. 10) of the York County Zoning Ordinance, to authorize a forestry operation. The property is located at 590 Taliaferro Road and is further identified as Assessor's Parcel No. 17-3-1. The property is located on the north side of Taliaferro Road (Route 666) approximately 1100 feet east of its intersection with Old Williamsburg Road (Route 238). The 10.3 acre property is zoned R13 (High Density Single Family Residential) and is designated for High Density Residential development in the Comprehensive Plan.

Ms. Amy Parker, Senior Planner, presented the summary of the staff report to the Commission. She explained the applicant violated the County Code by clear-cutting his property without an approved use permit. The City of Newport News requested the buffer between Baptist Run and the eastern side yard buffer be set at 200 feet because of the importance of water quality in that area, she added, noting that request was incorporated as a condition of proposed Resolution PC03-5.

Mr. Hendricks asked if the County can deny the request, and County Attorney James Barnett explained that it could be denied even though the forestry has taken place. The applicant could be prosecuted for a code violation. However, he added, such applications are generally approved if the individual applicant was not aware of the violation when it took place.

Ms. White inquired if the 200-foot buffer is required under the terms of the proposed resolution. Ms.

Parker explained it would be required in the absence of an impact study, which the applicant had the option to submit.

Mr. Barba asked what would happen if the area was replanted and the new plantings died. Ms. Parker said the applicant would be required to replant until the seedlings were established.

The Chair opened the public hearing.

Mr. Joseph R. Smith, 594 Taliaferro Road, Newport News, VA, spoke in support of his application. He elaborated on the history of the property in question, originally purchased by his grandfather in 1916 when he was required to relocate to make way for the establishment of Fort Eustis. Mr. Smith has owned the property since 1973, he said, and has built a family home upon it. He stated that he consulted with Mr. Lionel Johnson last November relative to cutting 50-year-old timber from the property and was advised by Mr. Johnson it was a good time to harvest it. Mr. Johnson proposed to obtain a state forestry permit, and proceeded to do so. Mr. Smith stated that he received notification from the County's Zoning and Code Enforcement Supervisor last November to cease the timbering operation until obtaining a special use permit. Subsequently, Mr. Smith learned he needed to file a forestry plan as part of his permit application. Mr. Smith said that he consulted with County officials about timbering up to a 50-foot buffer and recollected being told that could be approved. He learned after his application was scheduled for public hearing by the Planning Commission that he would be required to replace the trees that had been cut, and obtained an offer from "Mr. Rich" to assist in the replanting. Around that time, Mr. Smith stated, he was advised to talk with Mr. Joe Sisler [Department of Environmental and Development Services] to ensure compliance with the County Code. He said he is willing to fully comply. Mr. Smith said he has been a good and contributing citizen to York County and requested a favorable recommendation.

Mr. Simasek asked Mr. Smith if he had plans for the property. Mr. Smith said he would like to have it subdivided into home sites for his children and grandchildren.

There were none others who appeared to speak, and the Chair closed the public hearing.

Ms. White thanked the applicant for presenting his story and believes the situation exists because of an oversight. She would be supportive of the proposed resolution, she added.

Mr. Hendricks said he would also support the staff recommendation.

Mr. Hamilton inquired of the time line involved in replanting. He then asked if the applicant would have assistance with that undertaking, and if the applicant could accomplish all of the conditions of the proposed resolution. Mr. Hendricks and Ms. White expressed confidence that the applicant would accomplish whatever was required.

Mr. Ptasznik moved the adoption of Resolution PC03-5.

Resolution PC03-5

On motion of Mr. Ptasznik, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT
TO AUTHORIZE A FORESTRY OPERATION ON 590 TALIAFERRO ROAD
(ROUTE 666)

WHEREAS, Joseph R. Smith has submitted Application No. UP-615-03 to request a Special Use Permit, pursuant to Section 24.1-306 (category 2, number 10) of the York County Zoning Ordinance, to authorize a forestry operation to be conducted on approximately 10.3 acres located on the north side of Taliaferro Road (Route 666) approximately 1100 feet east of its intersection with Old Williamsburg Road (Route 238) and further identified as Assessor's Parcel No. 17-3-1; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application; and

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of February, 2003, that it does hereby transmit Application No. UP-615-03 to the York County Board of Supervisors with a recommendation of approval subject to the following conditions:

1. This special use permit shall authorize a forestry operation to be conducted on approximately 10.3 acres located on the north side of Taliaferro Road (Route 666) approximately 1100 feet east of its intersection with Old Williamsburg Road (Route 238) and further identified as Assessor's Parcel No. 17-3-1.
2. All activities shall comply with Sections 24.1-419, Standards for Forestry Operations, and 24.1-376, Watershed Management and Protection Area Overlay District, of the York County Zoning Ordinance.
3. A revised forest management plan incorporating the conditions of this use permit shall be submitted to and approved by the Zoning Administrator and the Virginia Department of Forestry prior to the continuation of the forestry operation.
4. An impact study prepared in accordance with the provisions of Section 24.1- 376(f) of the York County Zoning Ordinance shall be submitted to and approved by the Zoning Administrator prior to the continuation of any timber harvesting activity on the property.
5. An Erosion and Sediment Control Plan prepared in accordance with the provisions of Chapter 10 of the York County Code, Erosion and Sediment Control, shall be submitted to and approved by the County prior to the continuation of any timber harvesting activity on the property.

6. All forestry activities on the site shall be conducted in accordance with the guidelines set forth in the Virginia Department of Forestry's Forestry Best Management Practices for Water Quality in Virginia Technical Guide (3rd Edition).
7. All areas of bare soil resulting from the harvest shall be stabilized through revegetation in accordance with the guidelines set forth in the Virginia Department of Forestry's Forestry Best Management Practices for Water Quality in Virginia Technical Guide (3rd Edition). This revegetation shall immediately follow the conclusion of timber harvest activity on the property.
8. Notwithstanding recommendations of guidelines referenced in Condition Nos. 6 and 7 above, immediately following the conclusion of timber harvest activity on the property, all trees removed within the 200-foot tributary stream (Baptist Run) buffer and the 25-foot eastern side yard buffer shall be replaced with trees having a minimum 2½" caliper planting size. In accordance with Section 24.1-376(e)(2) of the Zoning Ordinance, the Zoning Administrator may approve a reduction of the 200-foot buffer to a minimum of 50 feet based on findings of the approved impact study required in Condition No. 4 above.
9. A 25-foot wide buffer shall be established bordering the 15-foot access easement located along the southern and eastern property boundaries. This buffer area shall be revegetated immediately following the conclusion of timber harvest activity on the property in accordance with planting specifications set forth in Section 24.1-243(a)(1) of the Zoning Ordinance.
10. Immediately following the conclusion of harvest activity on the property, all trees removed from the eastern abutting property (588 Taliaferro Road, Assessor's Map No. 17-3-2) shall be replaced with equivalent species having a minimum 2½" caliper planting size. Evidence of written approval by the property owner to replace removed trees shall be submitted to the County prior to replanting. Inability to secure such approval shall not be deemed a violation of this condition.
11. In areas outside of the tributary stream buffer, all harvested timber, logs, tree branches, limbs, dead and damaged trees, and associated debris shall be removed from the site upon completion of the timber harvest. Further timbering activity within the stream buffer shall not be permitted, except for needed revegetation and other erosion and sediment control measures deemed necessary by the Zoning Administrator.
12. The timbering operation shall be conducted in a manner to preclude damage to the existing gravel access road abutting the property's southern boundary, and any damage to the road resulting from the forestry operation shall be repaired without delay. The applicant shall be responsible for upgrading the road prior to continuation of timber harvesting activity if deemed necessary by the Zoning Administrator to accommodate heavy equipment used in the timbering operation.
13. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

Application No. ZT-72-03, York County Board of Supervisors: Request to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) to revise the definition of Accessory Apartment (Section 24.1-104) and to revise the Accessory Apartment performance standards (Section 24.1-407). Specific revisions under consideration include: establishing specific requirements applicable to attached and detached accessory apartments; establishing new floor area limits for matter-of-right and special use permit situations; and, establishing an absolute maximum limit on the size of accessory apartments.

Mr. Mark Carter summarized his memorandum to the Commission dated February 4, 2003. He reviewed the changes that had been made in the draft to reflect the decisions reached by the Commission at its January work session and noted that staff had identified only one question for further consideration by the Commission – that being whether the two-times-the-lot-size requirement in the R20 district (i.e., 40,000 square feet) would be “large” enough to achieve the desired objective. He suggested that a four-times-the-lot-size requirement might be more appropriate in the R20 district (i.e., 80,000). He said that, subject to the Commission’s discussion and decision on that point, staff recommends approval of the proposed amendments and believes they will achieve the County’s objectives to provide better guidance to applicants and better define parameters under which accessory apartments will be allowed. .

Chair Hendricks opened the public hearing.

Ms. Karen Berquist, 469 Catesby Lane, spoke to the Commission about her application for a special use permit for an accessory apartment, recommended for approval by the Commission in December 2002 and postponed by the Board pending review of the Commission’s recommendations for a text amendment concerning accessory apartments. Ms. Berquist believed that the proposal would significantly complicate her current application and if adopted would require her and her husband to make considerable revision to their application to comply with the more complex document as proposed. She expressed appreciation to the Commission and staff for explaining the implications of the proposed amendment.

Mr. Carter commented that Board of Supervisors would probably act upon Ms. Berquist’s application before any associated text amendments are adopted.

Ms. Berquist noted that her lot is an anomaly, being more than twice the size of the R13 minimum lot size. She thought many people would be affected by tying the allowable accessory apartment size to a zoning district designation.

There were no others to be heard, and Chair Hendricks closed the public hearing.

Ms. White moved for adoption of proposed Resolution PC03-6(R), revised to allow by-right accessory apartments on lots four times the minimum lot size in R20 zoning district.

Resolution No. PC03-6(R)

On motion of Ms. White, which carried 7:0, the following resolution was adopted:

P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 1 - RESIDENTIAL USES												
USES													
1. Residential - Conventional													
a) Single-Family, Detached	P	P	P	P		S							
b) Single-Family, Attached				S		P							
• Duplex						P							
• Townhouse						P							
• Multiplex						P							
c) Multi-Family						P							
d) Manufactured Home (Permanent)					P								
2. Residential (Cluster Techniques Open Space Development)													
a) Single-Family, Detached													

b) Single-Family, Attached • Duplex	P	P	P	P										
	S	S	S	S										
3. Apartment Accessory to Single-Family Detached	<u>P (1)</u>	<u>P (1)</u>	<u>P (1)</u>	<u>S (1)</u>										
4. Manufactured Home Park					S									
5. Boarding House		S				S								
6. Tourist Home, Bed and Breakfast		S	S	S		S		P	P					
7. Group Home (for more than 8 occupants)		S	S	S		S								
8. Transitional Home		S	S	S		S								

(1) Refer to Section 24.1-407 for accessory apartment location and performance standards

Sec. 24.1-407. Standards for accessory apartments in conjunction with single-family detached dwellings.

(a) Not more than one (1) accessory apartment may be permitted in conjunction with a single-family detached dwelling.

(b) Accessory apartments may be considered and authorized in accordance with the following schedule/procedures:

1. Accessory apartments ~~s may be located either in~~ not exceeding 600 square feet or 25% of the floor area of the principal structure, whichever is less, and attached to the principal structure (the single-family detached dwelling unit), shall be permitted as a matter of right in the RC, RR, R20 and R13 zoning districts. Attached accessory apartments in excess of the 600 square feet / 25% limitation, but not exceeding 800 square feet or 35% of the floor area of the principal structure, whichever is less, may be authorized by special use permit in the RC, RR, R20 and R13 zoning districts.
2. Accessory apartments proposed in detached structures in the RC, RR, R20 or R13 zoning districts shall require authorization by special use permit and shall not exceed 800 square feet or 35% of the principal structure floor area, whichever is less.
3. Notwithstanding the above limitations, on property in the RC or RR zoning districts which is at least twice as large as the applicable conventional development (i.e., not a "cluster" development) minimum lot size for that district/property, or on property in the R20 zoning district which is at least four times as large, an attached or detached accessory apartment shall be permitted as a matter of right provided that it does not exceed 800 square feet or 35% of the principal structure floor area, whichever is less. Upon authorization by special use permit, the maximum size of an accessory apartment on such property may be increased to 1,000 square feet or 49% of the floor area of the principal structure, whichever is less.

(c) Access to an accessory apartment whether in the principal structure or in a detached accessory structure, shall be designed so that the premises continues to have the appearance from the principal street frontage of one single family detached dwelling unit and its customary accessory structures. No new entrance to accommodate an accessory apartment shall be installed on the front façade (facing the street) of an existing or proposed principal structure. The applicant shall be responsible for submitting sketches and/or plans to demonstrate compliance with this condition.

(d) For the purposes of determining allowable floor area for an accessory apartment, all "habitable space," as defined and determined under the terms of the Building Code, shall be included in the calculation and shall be considered a part of the apartment. Space, which does not meet the "habitable" criteria, shall not be counted in floor area calculations for the accessory apartment

- (e) Notwithstanding the provisions of Section 24.1-273(c) of this chapter, for the purposes of this section, the term "attached" shall be construed to require connection by enclosed, heated, habitable space. Structures which are merely attached by a wall or roof construction, or which are within ten (10) feet of the principal structure shall not be considered "attached."
- (f) The maximum number of bedrooms in an accessory apartment shall be one (1).
- ~~(g)~~ Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be compatible with the character of the single-family residence and adjacent properties.
- ~~(h)~~ Approval of accessory apartments shall be contingent upon prior certification by the health department that any on-site water supply and sewage treatment facilities are adequate to serve the anticipated total number of ~~residents~~ bedrooms proposed on the property (principal and accessory).
- ~~(i)~~ The accessory apartment shall ~~not be rented separate from the principal dwelling and shall~~ be occupied only by family members or guests of the occupant of the single-family dwelling or by a bona fide medical/health caretaker or domestic employee of the occupant of the single-family dwelling. The apartment shall not be offered to the general public (i.e., non-family members / non-guests) for rental or other occupancy arrangements.
- (j) Prior to issuance of a Building Permit for the accessory apartment the property owner shall prepare and record with the Clerk of the Circuit Court, at his expense, a deed restriction on the property stipulating that the accessory apartment will be used, occupied and maintained in accordance with the above-noted restrictions and such others as may be prescribed by the York County Board of Supervisors in approving the special use permit. Such restrictions shall not be voided, in whole or in part, unless specifically authorized by the County Administrator in recognition of some subsequent change in the zoning restrictions applicable to accessory apartments or upon removal of the accessory apartment through demolition or alterations to the structure.

OLD BUSINESS - None.

NEW BUSINESS – None.

STAFF REPORTS

Mr. Carter reported on recent actions by the Board of Supervisors. He then reported that the subcommittee to study senior housing options in the County has scheduled its initial meeting in March. Mr. Hendricks noted the Board has not named its representative to that committee.

COMMITTEE REPORTS

Mr. Simasek noted the recent meeting of the Regional Issues Committee at which the members agreed to compile a map showing the current Comprehensive Plan designations for all three jurisdictions. The County's GIS staff is currently refining the work done on the map by the Regional Issues Committee, he added. More details will be forthcoming as the Committee continues adding layers of information to the map.

Ms. White expressed her appreciation to Mr. Carter for his work and support to the subcommittee during the accessory apartment revision study.

COMMISSION REPORTS AND REQUESTS – None.

STAFF REQUESTS - None.

FUTURE BUSINESS

Mr. Carter noted the applications for next month's public hearings.

Mr. Carter discussed the Secondary Roads Plan and the 2003 Repaving Schedule issued by Virginia Department of Transportation. The roads plan funding has been considerably decreased, he said, adding that some roads originally tagged for redesign and rebuilding would instead be rehabilitated, the first of which will be Seaford Road.

ADJOURNMENT

Chair Hendricks called adjournment at 7:50 pm.

SUBMITTED: _____/s/_____
Phyllis P. Liscum, Secretary

APPROVED: _____/s/_____
Michael H. Hendricks, Chair

DATE: March 12, 2003